

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT HOLMES, III,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57538

FILED

SEP 15 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ingersoll*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Kathy A. Hardcastle, Judge.

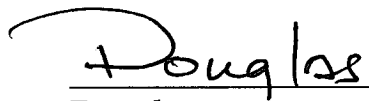
Appellant filed his petition on September 28, 2010, more than one year after entry of the judgment of conviction on January 5, 2009. Thus, appellant's petition was untimely filed. See NRS 34.726(1). Appellant's petition was procedurally barred absent a demonstration of cause for the delay and actual prejudice. See id.

Appellant failed to demonstrate any impediment external to the defense sufficient to establish good cause for his delay in filing his petition. See Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). To the extent appellant argued his delay should be excused due to

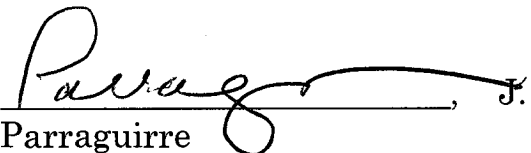
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

the ineffective assistance of appellate counsel, we note that no direct appeal was filed in this case, and appellant failed to allege any other specific facts demonstrating how the alleged behavior of counsel constituted an impediment external to the defense that prevented him from filing the instant petition in a timely manner. See id. at 253-54; 71 P.3d at 507; Hargrove v. State, 100 Nev. 498, 502-503; 686 P.2d 222, 225 (1984). Therefore, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Kathy A. Hardcastle, District Judge
Robert Holmes, III
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk